

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Yvonne K. Day,

Complainant,

vs.

Verizon California Inc.,

Defendant.

(ECP)

Case 06-03-012

(Filed March 7, 2006)

**OPINION DISMISSING COMPLAINT
FOR LACK OF JURISDICTION**

Yvonne K. Day, complainant, seeks an unspecified amount of damages against Verizon California Inc., (Verizon or defendant), who is her internet service provider (ISP) of digital subscriber line (DSL) service. Complainant alleges her dispute started when her telephone line was “deliberately and unjustifiably disconnected on September 3, to noontime on September 5, 2003.” Over a year later, complainant alleged that senior company officials “recently” instructed “their subordinates in the technical support department to disable [her] Verizon DSL web server connection.” (See November 9, 2004 letter, attached to complaint.) In that same November 9 letter, complainant writes: “It is imperative that Verizon cease and desist these racist bad faith business practices forthwith.” In a letter to the Commission dated February 21, 2006

(attached to the complaint), complainant states “the Commission prevented my complaint from being properly investigated for (6) months. This is prima facie evidence of a conspiracy to commit fraud.” Complainant also alleges an unauthorized debiting of her checking account for \$100.

Defendant moves to dismiss on various grounds.

- Verizon’s Online ISP service is a non-regulated, interstate, long distance telephone service between local access and transport area and international telephone service (interLATA) information service and as such is not offered pursuant to state tariff or subject to the jurisdiction of the Commission.
- Complainant’s allegations do not aver facts sufficient to state a cause of action under California Public Utilities Code Section 1702 and Rule 9 of the Commission’s Rules of Practice and Procedure.
- To the extent that the complaint seeks damages or remedies beyond the jurisdiction of the Commission, such requests for damages and/or remedies must be dismissed.
- The complaint is barred by the applicable statute of limitations.

The “Commission has uniformly held that it has no jurisdiction to award damages as opposed to reparations.” (PT&T Co., 72 CPUC 505, 509 (1971) (citing Jones v. PT&T Co., 61 CPUC 674 (1963) for proposition that there is no Commission cause of action for alleged willful interruption of service.)

“Reparatory relief is limited to a refund or adjustment of part or all of the utility charge for a service or group of related services. Consequential damages on the other hand is an amount of money sufficient to compensate an injured party for all the injury proximately caused by a tortious act, or to replace the value of performance of a breached obligation.”

Complainant’s remedy for any alleged intentional damage to her DSL service is with the courts, not the Commission. (Jones v. PT&T Co., supra. See, also, Mastrantuono v. PG&E, D.90369, 1 CPUC 2d 587.)

Complainant's cause of action sounds in tort: instructing subordinates to disable her DSL connection; racist bad faith business practices, etc. Based on these allegations it is apparent that complainant seeks damages, not reparations. We have no jurisdiction to award damages. The complaint should be dismissed for lack of jurisdiction.

O R D E R

IT IS ORDERED that the complaint is dismissed for lack of jurisdiction.

This case is closed.

This order is effective today.

Dated _____, at San Francisco, California.